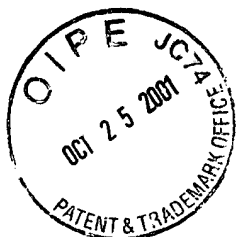


# ARNOLD & PORTER



October 25, 2001

June E. Cohan  
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Commissioner for Patents  
Washington, DC 20231

Group Art Unit: 1655  
Examiner: L. Arthur

Re: U.S. Utility Patent Application Serial No. 09/594,596  
Filed: June 15, 2000  
For: Nucleic Acid Molecules and Other  
Molecules Associated with Plants  
Inventors: Scott E. ANDERSEN *et al.*  
Atty. Docket: 38-21(15878)B

Sir:

Transmitted herewith for appropriate action by the U.S. Patent and Trademark Office (PTO) are the following documents:

1. Response to Restriction Requirement; and
2. Return postcard.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time (other than those provided herewith) are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 50-1824. A duplicate copy of this letter is enclosed.

Sincerely,

June E. Cohan (Reg. No. 43,741)

Enclosures



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Scott E. ANDERSEN *et al.*

Appl. No.: 09/594,596

Filed: June 15, 2000

For: **Nucleic Acid Molecules and Other  
Molecules Associated with Plants**

Art Unit: 1655

Examiner: L. Arthur

Atty. Docket: 38-21(15878)B

**Response to Restriction Requirement**

Commissioner for Patents  
Washington, D.C. 20231

Sir:

In response to the Office Action mailed October 3, 2001, Applicants submit the following remarks.

***Remarks***

The application presently contains claims 1-9. In the Office Action mailed October 3, 2001, the Examiner required restriction to one of the following inventions under 35 U.S.C. § 121:

Groups 1 through 10,952: Claim 1, drawn to a single nucleic acid molecule selected from the group of SEQ ID NO: 1 through SEQ ID NO: 10,952, classified in class 536, subclass 23.6;

Groups 10,953 through 21,904: Claim 2, drawn to a single wheat polypeptide encoded by a molecule selected from the group of SEQ ID NO: 1 through SEQ ID NO: 10,952, classified in class 530, subclass 370; and

Groups 21,905 through 32,857: Claims 3-9, drawn to a transformed plant containing a nucleic acid molecule selected from the group of SEQ ID NO: 1 through SEQ ID NO: 10,952, classified in class 435, subclass 410.

Applicants respectfully traverse the restriction requirement, and provisionally elect Group 1 (claim 1 drawn to SEQ ID NO: 1) for further prosecution.

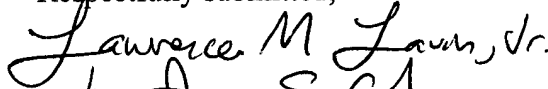
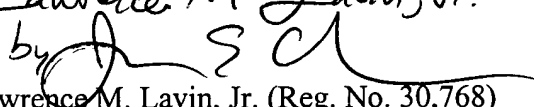
Applicants submit that the complete examination of the application would be handled most expeditiously by treating all of the pending claims as a single entity. As Section 803 of the MPEP directs, “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.” Applicants respectfully submit that the Examiner has not shown that a search and examination of the entire application would cause a serious burden. Rather, a serious burden would arise if the application were restricted.

Applicants submit that the restriction requirement is inappropriate. For example, Applicants contend that, at least, Group 1 and Group 10,953 should be examined simultaneously because they are related as nucleic acids and proteins encoded by nucleic acids comprising SEQ ID NO: 1. Accordingly, examination of Group 1 and 10,953 together would pose no undue burden to the Examiner. Furthermore, Applicants submit that restriction to a single nucleotide sequence is improper and Applicants believe no serious burden would result by the search and examination of at least ten nucleotide sequences.

Based upon the foregoing, Applicants submit that the restriction requirement is improper and therefore should be withdrawn. To facilitate prosecution, however, Applicants have provisionally elected, with traverse, Group 1 (claim 1 drawn to SEQ ID NO: 1).

Should the Examiner have any questions regarding this application, the Examiner is encouraged to contact Applicants' undersigned representative at (314) 694-3602.

Respectfully submitted,

  
by   
Lawrence M. Lavin, Jr. (Reg. No. 30,768)  
by June E. Cohan (Reg. No. 43,741)

DATE: October 25, 2001  
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